

# Exhibit A

**From:** Birenboim, Bruce  
**Sent:** Tuesday, October 27, 2020 12:53 PM  
**To:** 'David Jeffries'  
**Cc:** Buergel, Susanna M; Doran, Marissa  
**Subject:** RE: Cardwell v. DPW

**Categories:** Davis Polk

David,

I am not exactly sure what you are asking, so let me try to clarify:

If you are asking whether defendants will answer the current complaint with respect to the claims that were not dismissed or were not subject to our motion within 14 days after the deadline for the motion to amend, which is November 9, we can confirm that we will do so, *provided* that you do not file a further amended complaint by November 9. If you do file a further amended complaint by November 9, that will start the clock running again on our time to answer or move with respect to the entire further amended complaint.

In other words, if you do not file a further amended complaint, we will answer the current complaint with respect to the claims we did not seek to dismiss or which survived the motion within 14 days of November 9. If you do file an

amended complaint, we will answer or move with respect to that complaint within 14 days of November 9.

Is that agreeable?

Best,

Bruce

**Bruce Birenboim** | Partner ([Bio](#))  
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**From:** David Jeffries <[djeffries@jeffrieslaw.nyc](mailto:djeffries@jeffrieslaw.nyc)>  
**Sent:** Tuesday, October 27, 2020 12:11 PM  
**To:** Birenboim, Bruce <[bbirenboim@paulweiss.com](mailto:bbirenboim@paulweiss.com)>  
**Cc:** Buergel, Susanna M <[sbuergel@paulweiss.com](mailto:sbuergel@paulweiss.com)>; Doran, Marissa <[mdoran@paulweiss.com](mailto:mdoran@paulweiss.com)>  
**Subject:** Re: Cardwell v. DPW

Bruce,

Can you confirm that, within 14 days of the deadline to amend, Defendants will answer the current complaint on the claims that were not dismissed or subject to the motion to dismiss?

If you provide that confirmation, we'll agree to enter a stipulation that reflects that. If you cannot provide that confirmation, we reiterate our consent to Defendants seeking clarification from the Court (as your email indicated you wished to do). We see no need for a stipulation if clarification is what Defendants seek.

However, to avoid misrepresenting Plaintiff's position, we ask that you include a copy of this thread with your request so the Court has an accurate record of the parties' discussion.

Thanks,

David

**From:** Birenboim, Bruce <[bbirenboim@paulweiss.com](mailto:bbirenboim@paulweiss.com)>

**Sent:** Tuesday, October 27, 2020 7:48 AM

**To:** David Jeffries <[djeffries@jeffrieslaw.nyc](mailto:djeffries@jeffrieslaw.nyc)>

**Cc:** Buergel, Susanna M <[sbuergel@paulweiss.com](mailto:sbuergel@paulweiss.com)>; Doran, Marissa <[mdoran@paulweiss.com](mailto:mdoran@paulweiss.com)>

**Subject:** RE: Cardwell v. DPW

Thanks, David. We will report to the Court that you declined to enter into the stip we proposed.

**Redacted/Subject Unrelated to Request for Clarification**

Thanks,

Bruce

Bruce Birenboim | Partner

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**From:** David Jeffries <[djeffries@jeffrieslaw.nyc](mailto:djeffries@jeffrieslaw.nyc)>

**Date:** Tuesday, Oct 27, 2020, 1:56 AM

**To:** Birenboim, Bruce <[bbirenboim@paulweiss.com](mailto:bbirenboim@paulweiss.com)>

**Cc:** Buergel, Susanna M <[sbuergel@paulweiss.com](mailto:sbuergel@paulweiss.com)>, Doran, Marissa <[mdoran@paulweiss.com](mailto:mdoran@paulweiss.com)>

**Subject:** Re: Cardwell v. DPW

Bruce,

Thanks. We're in the process of deciding how we want to proceed. We do not object to you seeking clarification from the court re: Defendants' due dates.

Also, **Redacted/Subject Unrelated to Request for Clarification**

Kind regards,

David

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**From:** Birenboim, Bruce <[bbirenboim@paulweiss.com](mailto:bbirenboim@paulweiss.com)>

**Sent:** Monday, October 26, 2020 2:47 PM

**To:** David Jeffries <[djeffries@jeffrieslaw.nyc](mailto:djeffries@jeffrieslaw.nyc)>

**Cc:** Buergel, Susanna M <[sbuergel@paulweiss.com](mailto:sbuergel@paulweiss.com)>; Doran, Marissa <[mdoran@paulweiss.com](mailto:mdoran@paulweiss.com)>

**Subject:** Cardwell v. DPW

David,

I trust you have seen the Judge's opinion, issued today, on the motion to dismiss. As you will note, you have 14 days to amend your complaint and seek to replead certain claims that were dismissed. At the same time, the remaining defendants have 14 days from today to answer the current complaint. This makes any amended complaint from you due the same day as our answer to the current complaint.

We do not think it makes sense to answer the current complaint if you plan to further amend it within the next 14 days, since that will moot our answer and trigger an additional 14 days for us to answer or move with respect to the further amended complaint.

In an effort to avoid burdening the Court with this timing issue, we suggest that the parties simply stipulate that defendants' time to respond to the complaint in this action shall be extended to the earlier of a) 14 days following the filing of any amended complaint pursuant to the Court's order of today or b) 14 days after \_\_\_\_\_, 2020, the last day on which you may further amend the complaint pursuant to the Court's order.

Please let us know if you agree to the proposed stipulation before the end of the day. If you are not in agreement, we will seek clarification of the due dates from the Court.

Thanks, as always, for your consideration.

Best,

## Bruce

**Bruce Birenboim** | Partner ([Bio](#))

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